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Dear Applicant:

Your application for exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code has been considered.

The information submitted discloses that your organization was incorporated on [REDACTED] under the statutes of the State of [REDACTED] as a nonprofit organization. Your purposes, as indicated in the Articles of Incorporation, are charitable, religious, educational, and scientific.

The activities, as stated in your application and subsequent information submitted by you, consist of operating a community center at which you show both Christian and secular films once or twice a month; operate a restaurant called [REDACTED]; hold prayer breakfasts once a month; sponsor a youth activities room for young people; and sponsor occasional gospel singers.

Your restaurant is open to the public from 6:00 A.M. to 7:00 P.M. and on some evenings for special events. The restaurant serves three meals per day and a smorgasbord on Sundays. You have received a license to operate the restaurant from the State Department of Health for which you paid \$[REDACTED]. The license shows that you have a seating capacity for "more than 30". Your financial information shows that approximately [REDACTED] % of your gross income originates through the sale of food in your restaurant.

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax corporations and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations states that an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If an organization

Code	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer

fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c) of the Income Tax Regulations states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in Section 501(c)(3).

The primary activity of your organization is the operation of a business normally carried on for profit. The operation of a restaurant for public use is not connected with any of the exempt purposes indicated in Section 501(c)(3) of the Code. You are in direct competition with other for-profit restaurants operating in the town of Menno, the names of which you have submitted. Although some of your activities may be regarded as charitable, educational and religious, the primary activity is the operation of the restaurant.

The presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under Section 501(c)(3). Accordingly, it is our determination that your organization does not qualify for exempt status under Section 501(c)(3) of the Internal Revenue Code, or any other section of the Code.

It will be necessary for you to file an income tax return each year on Form 990.

If you do not agree with these conclusions, you may request Appeals Office consideration. To do this, you must submit to the District Director within 30 days from the date of this letter, a statement of facts, law, and arguments, in duplicate, which will clearly set forth your position. You also must state whether you wish an Appeals Office conference. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7423(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization

[REDACTED]

involved has exhausted administrative remedies available to it within the Internal Revenue Service".

On final determination, copies of this letter will be forwarded to appropriate State officials in accordance with Section 6104(c) of the Internal Revenue Code. -

If we do not hear from you within the time specified, this communication will become our determination in the matter.

Very truly yours,

[REDACTED]
District Director

Enclosure:
Publication 802